IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 135 OF 2006

T. RAMESHAN, DIST.KASARGOD KERALA. ....Applicant

Versus

STATE (CBI,SPECIAL CRIME BRANCH,MUMBAI) THROUGH THE STANDING COUNSEL AND ANR., ...Respondents

Mr. S.G. Bhobe, Advocate for the Applicant.

Coram:- N. A. BRITTO, J.

Date:- 2nd March, 2006

P.C.

Heard Shri Bhobe, the learned Counsel on behalf of the applicant, who has invoked the extraordinary jurisdiction of this Court under Section 462 of the Code of Criminal Procedure, 1973. It appears that the applicant was A5 in C.C. no. 64/S/2001/B, before the learned J.M.F.C., Vasco da Gama, and was discharged by the learned J.M.F.C. by Order dated 29.01.2004, under Section/s 420, 467, 468, 471 read with Section 120-B, while the trial against the remaining accused in the said case, is stated to be in progress. After the said discharge, the applicant has received a notice from the Special Judge, in Special Case No.2/2005, stating that a supplementary charge sheet has now been filed by the CBI, Mumbai, under the Prevention of Corruption Act, 1988. It appears that it is the contention of the applicant that the applicant having been discharged by the learned J.M.F.C., by Order dated 29.01.2004, he could not be prosecuted under the provisions of the Prevention of Corruption Act, 1988. In my view, the applicant is certainly entitled to raise such a grievance before the Special JUdge, in Special Case No. 2/2005 and the learned Special Judge, is bound to decide such a plea if raised at the stage of framing of charge/discharge in the said Special Case no. 2/2005. Only

on receipt of the said notice dated 28.11.2005, summoning the applicant before the learned Special Judge, that the applicant has chosen to rush to this Court invoking the extraordinary jurisdiction and file the present application, which to my mind, appears to be premature.

2. Accordingly, and in the light of the above observations, the application is dismissed.

N. A. BRITTO, J.

arp/*